

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

UNITED STATES OF AMERICA, §
v. §
CHRISTOPHER ANDRE VIALVA. §

**CAPITAL CASE
NO. W-99-CR-00070(1)
Execution Date: Sept. 24, 2020**

**UNOPPOSED ADVISEMENT OF INTENT TO FILE REPLY
TO UNITED STATES'S RESPONSE IN OPPOSITION
TO MOTION TO ENJOIN THE FEDERAL BUREAU OF PRISONS
AND THE UNITED STATES MARSHALS SERVICE FROM
EXECUTING DEFENDANT WITHOUT LEGAL AUTHORITY
AND IN VIOLATION OF FEDERAL AND TEXAS LAW**

TO THE HONORABLE COURT:

Christopher André Vialva, through counsel, filed a motion requesting this Court enter an order enjoining the United States Bureau of Prisons and the United States Marshals Service from executing him September 24, 2020. *Motion to Enjoin*, filed 08/14/2020, document 675. Mr. Vialva raised multiple procedural and substantive issues regarding the notice issued by the Attorney General of the United States through the Warden of Terre Haute United States Penitentiary. The United States's response reflects a significant dispute concerning the interpretation of the Federal Death Penalty Act as applied in this case. Resolution of this dispute would be facilitated by a reply from Mr. Vialva. A reply would also ensure a complete exposition of the issues for further review.

The motion for injunctive relief was filed in this criminal proceeding pursuant Title 28, United States Code, Section 1651(a). The parties agree Local Rule CV-7(f)(2) permits the filing of a reply within seven days. The United States treated Mr. Vialva's pleading as a dispositive motion for purposes of its response. Accordingly, Mr. Vialva may file a reply not to exceed ten pages without further leave of Court. Local Rule CV-7(f)(3).

Counsel contacted counsel for the United States concerning Mr. Vialva's intention to file a reply. Within the limits prescribed by Local Rule CV-7, the United States does not oppose Mr. Vialva's stated intention to file a reply.

Respectfully submitted,

s/Susan M. Otto
SUSAN M. OTTO Oklahoma Bar # 6818
Federal Public Defender
MICHAEL LIEBERMAN Oklahoma Bar #32694
Assistant Federal Public Defender
Western District of Oklahoma
215 Dean A. McGee Suite 109
Oklahoma City, Oklahoma 73102
Telephone: 405 609-5930
Electronic mail: Susan_Otto@fd.org;
Michael_Lieberman@fd.org
COUNSEL FOR DEFENDANT
CHRISTOPHER ANDRE VIALVA

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of August, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Mr. Mark Frazier
Assistant United States Attorney
800 Franklin, Suite 280
Waco, Texas 76701
Counsel for Plaintiff

Via electronic mail to
Mark Stelmach
Assistant United States Attorney
Austin, Texas
Counsel for Plaintiff

Rob Owen
Law Office of Robert C. Owen, LLC
53 W. Jackson Blvd., Suite 1056
Chicago, IL 60604

John Carpenter
Assist. Federal Public Defender
1331 Broadway, Ste. 400
Tacoma, WA 98402
Counsel for Brandon Bernard

s/Susan M. Otto
SUSAN M. OTTO